

Town of Lamoine
Application for Variance or
Appeal to the Board of Appeals

Name of Appellant Anthony Benincasa

Mailing Address 12 Lorimer Road

City or Town Lamoine, Maine 04605

Telephone (Home) 610-1456 (Work) 561-758-2056

Name(s) of Property Owner Same

The undersigned requests that the Board of Appeals consider one of the following:

X 1. An Administrative Appeal. Relief from the decision, or lack of decision, of the Code Enforcement Officer or Planning Board in regard to an application for a permit. The undersigned believes that (check one):

 an error was made in the denial of the permit

 the denial of the permit was based on a misinterpretation of the ordinance

 there has been a failure to approve or deny the permit within a reasonable period of time

 Other On August 13 the Planning Board erroneously granted a waiver for multiple entrance to Barry Balach, 7 Lorimer Drive; Also on August 14, the CEO erred in his refusal to Order removal of a Recreational Vehicle utilized as a Dwelling Unit for more than 30 days, which is contrary to Part II Section 10(B) of the Building and Land Use Ordinance.

1. Pursuant to Part I Section 5 of the Building and Land Use Ordinance "Each Lot shall be accessed by no more than one curb cut unless a waiver is granted by the Planning Board. The Planning Board granted Mr. Balach's request for waiver for multiple driveways on his small residential lot to accommodate the unlawful presence of a recreational vehicle on the lot used as a dwelling unit in excess of 30 days without a permit. In doing so the Planning Board, exercised an unlawful delegation of its authority because the Ordinance does not list criteria or standards of review applicable to the consideration of such a waiver.

2. The CEO refuses to recognize that Part II, Section 10(B) of the Building and Land Use Ordinance limits use of a Recreational Vehicle as a dwelling to no more than 30 days. Hence Mr. Balach has had at least one, and at times two, Recreational Vehicles serving as a dwelling unit on his residential lot since on or before June 24, 2014 and continuing.

Please explain in more detail the fact surrounding this appeal (please attach a separate piece of paper). You should be as specific as possible so that the Board of Appeals can give full consideration to your case.

 2. A Variance.

a. Nature of Variance: Describe generally the nature of the variance.

In addition, a sketch plan of the property must accompany this application showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings, or alterations, and any natural or topographic peculiarities of the lot in question.

b. Justification of Variance: In order for a variance to be granted, the appellant must demonstrate to the Board of Appeals that the strict application of the terms of the zoning ordinance would cause undue hardship. There are four criteria which must be met before the BOA can find that a hardship exists. Please explain how your situation meets each of these criteria listed below:

1. The land in question cannot yield a reasonable return unless the variance is granted.
2. The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.
3. The granting of a variance will not alter the essential character of the locality.
4. The hardship is not the result of action taken by the appellant or a prior owner.

I certify that the information contained in this application and its supplement is true and correct.

Date: 09-08-2014


Edmond J. Bearor, Esq.

Attorney for Appellant

Rudman Winchell – P.O. Box 1401 – Bangor, ME 04402-1401

Note to Appellant: This form should be returned to the Chairman of the Board of Appeals. You will be notified of the date, time and location of the hearing on your appeal.